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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,902

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Alexander A. Maltsev

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02/22/2010

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.

P.O. BOX 2938

MINNEAPOLIS, MN 55402

EXAMINER

SINKANTARAKORN, PAWARIS

ART UNIT

PAPER NUMBER

2464

NOTIFICATION DATE

DELIVERY MODE

02/22/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com

request@slwip.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/749,902	Applicant(s) MALTSEV ET AL.	
	Examiner Pao Sinkantarakorn	Art Unit 2464	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 2,5,7,12-13,18-21, and 26-27.
- Claim(s) objected to: 24.
- Claim(s) rejected: 1,3,4,6,8-11,14,15,16,17,22, and 23.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2464

/Pao Sinkantarakorn/
Examiner, Art Unit 2464

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicants amended claim 16 to overcome 35 U.S.C. 112 2nd paragraph rejection. Thus, the 112 2nd paragraph rejection is withdrawn. However, claim 16 is still rejected under 35 U.S.C. 103(a).

On pages 2-3 of the Remarks, The Applicants submit that Tu does not teach "a subchannel filter selection switch to provide an analog baseband signal to a selected one of the subchannel low-pass filters."

The Examiner respectfully disagrees. Firstly, there is no structure defining the subchannel filter selection switch in claim 1 or claim 16. Secondly, the steps of providing a signal to a selected one of the subchannel filters are not specifically defined in the claim. Thus, the Examiner is entitled to interpret the claims as broadly as the claim language allows. The Examiner interprets Figure 4A of Tu as teaching the subchannel filter selection switch, where paragraphs 40-45 describe Figure 4A. As shown in Figure 4A of Tu, RF Switch 412 receives input RF signal and provides the received input signal to BPF WB 422. The signal is then independently passed on to each of the mixers 432, and then each mixer provides the signal to Low Pass Filters. Please note that there are multiple LPFs but only one LPF is shown in Figure 4A. The step of providing signal from BPF WB 422 to the mixers and eventually to LPFs can be broadly interpreted as the subchannel filter selection switch to provide an analog baseband signal to a selected one of the subchannel low-pass filters since the step of providing a signal to a selected one of the subchannel filters are not specifically defined in the claim. Thus, the Examiner believes the 103(a) rejection should be sustained. The Examiner respectfully suggests the Applicants to amend the subchannel filter selection switch to further define the step of selecting a subchannel filter to overcome Tu.